

JUDGE BAER

CARROLL MCNULTY & KULL LLC
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Attorneys for Plaintiff
Mund & Fester GmbH & Co. KG, a/s/o Tom
Lange Company International d/b/a Seven
Seas Fruit

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

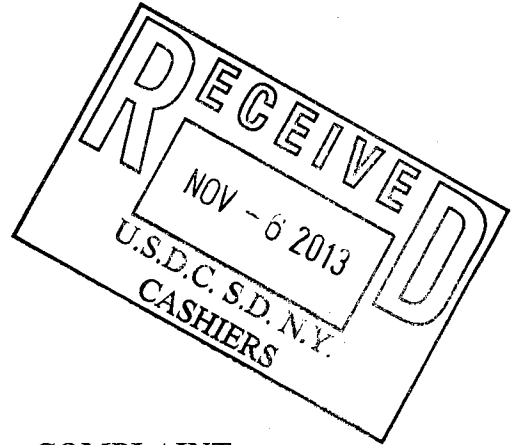
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MUND & FESTER GMBH & CO. KG, a/s/o
TOM LANGE COMPANY INTERNATIONAL
d/b/a SEVEN SEAS FRUIT

Plaintiff,

- against -

AP MOLLER-MAERSK A/S d/b/a MAERSK
LINE

Defendant.
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COMPLAINT

Plaintiff, MUND & FESTER GMBH & CO. KG a/s/o TOM LANGE COMPANY INTERNATIONAL d/b/a SEVEN SEAS FRUIT (hereinafter “MUND & FESTER” and “TOM LANGE” respectively, “Plaintiff” collectively) by its attorneys, Carroll McNulty & Kull LLC, as and for its Complaint against Defendant AP MOLLER-MAERSK A/S d/b/a MAERSK LINE (hereinafter “MAERSK”), alleges upon information and belief as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1333 and Rule 9(h) of the Federal Rules of Civil Procedure;

2. Venue is proper in the United States District Court for the Southern District of New York because the bill of lading contract entered into between the insured and MAERSK makes this Court the exclusive forum for disputes arising thereunder;

PARTIES

3. At all times hereinafter mentioned, Plaintiff, MUND & FESTER, was and still is, a corporation organized and existing pursuant to the laws of a foreign state with its primary place of business located at Trostbrücke 1, 20457 Hamburg, Germany, and, at all times relevant hereto, was the subrogated insurance underwriter of TOM LANGE, the consignee and owner of the shipment of clementines. MUND & FESTER has an equitable right of subrogation and is subrogated as to the claims for damages alleged below;

4. Upon information and belief, at all times hereinafter mentioned, defendant AP MOLLER-MAERSK A/S, is a foreign corporation with its primary place of business A.P. Møller - Maersk A/S, Esplanaden 50, 1098 Copenhagen K, Denmark; MAERSK LINE is a foreign corporation registered to do business in the State of New Jersey with its primary place of business located at 2 Giralda Farms, Madison, New Jersey, 07940.

FACTUAL BACKGROUND

5. On or about December 26, 2012, a consignment of eight thousand, two-hundred and eighty (8,280) packages of clementines, then in good order and condition, was laden into a forty (40) foot reefer container no. MWCU6626466, and was delivered to MAERSK LINE for transportation from Agadir, Morocco to Newark, New Jersey to be consigned to TOM LANGE in consideration of an agreed upon freight, pursuant to MAERSK bill of lading number MAEU555986456.

6. The aforementioned consignment was loaded on board the M/V CONCORDIA, the bill of lading number MAEU555986456 was issued and the vessel proceeded the port of Newark.

7. On or about January 16, 2012, MAERSK issued an arrival notice. Upon delivery of the cargo, it was discovered that the consignment was not in good order and condition, but instead had suffered damage during its transport.

8. As a result of the damage, the Plaintiff sustained damages in the amount of US\$12,550.46.

9. The damage to the cargo was not the result of any act or omission of the Plaintiff, including any manner of packaging, but, rather, was solely due to the negligence, breach of contract, and bailment on the part of Defendant.

10. As the subrogor with the equitable right of subrogation, Plaintiff seeks damages in the amount of US\$12,550.46, no part of which has been paid, although demanded.

WHEREFORE, Plaintiff prays:

A. That process in due form of law issue against the defendant, AP MOLLER-MAERSK A/S d/b/a MAERSK LINE citing the defendant to appear and answer under oath all and singular the matters alleged in the Complaint;

B. That judgment be entered in favor of plaintiff, MUND & FESTER GMBH & CO. KG a/s/o TOM LANGE COMPANY INTERNATIONAL d/b/a SEVEN SEAS FRUIT, and against defendant, AP MOLLER-MAERSK A/S d/b/a MAERSK LINE, in the amount of US\$12,550.46, with interest, costs and disbursements of this action;

C. That the plaintiff have such other, further and different relief as the Court may deem just and proper.

Dated: New York, New York
November 6, 2013

CARROLL McNULTY & KULL LLC
Attorneys for Plaintiff, Mund & Fester GmbH & Co.
KG, a/s/o Tom Lange Company International d/b/a
Seven Seas Fruit

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